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*Crl.M.P.No.16517 of 2024
in Crl.R.C.No.2047 of 2024*

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SUNDER MOHAN, J.

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed by the learned Metropolitan Magistrate, FTC-II, Egmore, Allikulam, Chennai in C.C.No.3652 of 2019 dated 12.09.2023 and confirmed by the learned Principal Sessions Judge, Chennai in Crl.A.No.632 of 2023 dated 19.06.2024 and to enlarge the petitioner on bail, pending disposal of the revision.

2. The case of the respondent is that towards discharge of liability, the petitioner had issued a cheque for a sum of Rs.25,75,765/- to the respondent ; and when the said cheque was presented for collection it was returned as “exceeds arrangement” and inspite of statutory notice, the petitioner did not make any payment.

3. The learned counsel for petitioner would submit that the respondent had not established that the petitioner is due to pay Rs.25,75,765/-; that in any case, the petitioner had paid a sum of Rs.3,00,000/- and therefore since



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the petitioner had rebutted the statutory presumption, the courts below ought not to have convicted the petitioner; that there are substantial grounds in the revision which requires consideration. The learned counsel further submitted that the petitioner, to show her bonafide is willing to deposit 30% of the cheque amount.

4. Heard the learned counsel for the petitioner and perused the records.

5. Taking into consideration the submissions made by the learned counsel for the petitioner that there are substantial grounds raised by the petitioner in the revision which requires consideration and the submission made by the learned counsel for the petitioner that the petitioner is willing to deposit 30% of the cheque amount, this Court is inclined to suspend the sentence imposed on the petitioner by the trial court, subject to the following conditions, till the disposal of the above Criminal Revision :

(i) The petitioner/accused is directed to deposit 30% of the cheque amount i.e.,Rs.7,72,730/- [Rupees Seven Lakhs Seventy Two Thousand Seven Hundred and Thirty only], within a period of four weeks from the date of receipt of a copy of this



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order;

(ii) On such deposit being made, the trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case;

(iii) Thereafter, the sentence of imprisonment alone, imposed on the petitioner/accused shall be suspended, on her executing a bond a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Metropolitan Magistrate, FTC-II, Egmore, Allikulam, Chennai ;

(iv) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(v) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the revision and if she is not able to appear before the trial Court on any day, she shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of her



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absence, as directed by the trial Court; and

(vi) On the failure of the petitioner/accused, depositing the said amount, it is open to the trial Court to commit the petitioner/accused into custody for undergoing the sentence.

6. Accordingly, this Criminal Miscellaneous Petition is ordered.

25.11.2024
(2/2)

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To

1.The Principal Sessions Judge,
City Civil Court,
Chennai.

2.The Metropolitan Magistrate,
FTC-II, Egmore @ Allikulam,
Chennai

3.The Public Prosecutor,
High Court, Madras.



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